



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Cy-Fair Chiropractic Association

**Respondent Name**

ACE American Insurance Company

**MFDR Tracking Number**

M4-15-4135-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

August 24, 2015

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "... EACH DATE OF SERVICE MENTIONED ONLY HAD 1 CPT CODE BILLED, 99358, SO IT COULD NOT HAVE POSSIBLY BEEN ADJUDICATED WITH ANOTHER SERVICE/PROCEDURE.

CODES USED WERE PART OF CASE MANAGEMENT AND IS ALLOWABLE UNDER TAC 28 CHAPTER 134 AND FURTHERMORE TWC RULES TAKE PRECEDENCE OVER ANY CONFLICTING PROVISION OR PROGRAM."

**Amount in Dispute:** \$380.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "It has been determined that ESIS MedBill Impact will stand on the original recommendation of \$0.00.

... This is not a stand alone code."

**Response Submitted by:** ESIS Bill Review

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 24 – May 15, 2015	Case Management (99358)	\$380.00	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.202 is the medical fee guideline for services between August 1, 2003 and March 1, 2008.
3. 28 Texas Administrative Code §134.203 sets out the guidelines for billing and reimbursing professional

medical services on or after March 1, 2008.

4. 28 Texas Administrative Code §134.204 sets out the guidelines for billing and reimbursing workers' compensation specific services on or after March 1, 2008.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 601 – Per the fee schedule, this service or supply is considered bundled.
  - TBR13 – Services are included in the value of another procedure.
  - P14 – The benefit for this service is included in the payment/allowance for another service/procedure that has been performed on the same day.
  - 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
  - 193 – Original payment decision is being maintained. This claim was processed properly the first time.
  - CIQ378 – This appeal is denied as we find the original review reflected the appropriate allowance for the service rendered. We find that no additional recommendation is warranted at this time.

### **Issues**

1. What is the correct fee guideline applicable to the disputed services?
2. Are the insurance carrier's reasons for denial of payment supported?

### **Findings**

1. The requestor stated that "TAC 28, CHAPTER 134, SUBCHAPTER C 134.202 (A) ALLOWS TWC RULES TO TAKE PRECEDENCE OVER ANY CONFLICTING PROVISION OR PROGRAM." Further, they state that "THE CODE USED IS PART OF CASE MANAGEMENT AND IS ALLOWABLE AS A SEPARATE PROCEDURE UNDER TEXAS ADMINISTRATIVE CODE 28, CHAPTER 134, SUBCHAPTER B, 134.204 (A)."

28 Texas Administrative Code §134.204 (a) states, in relevant part:

- (2) This section applies to workers' compensation specific codes, services and programs provided on or after March 1, 2008.
- (3) For workers' compensation specific codes, services and programs provided between August 1, 2003 and March 1, 2008, §134.202 of this title (relating to Medical Fee Guideline) applies.

The dispute involves CPT code 99358 for dates of service January 24, 2015; February 27, 2015; March 2, 2015; and May 15, 2015. Therefore, 28 Texas Administrative Code §134.202 does not apply.

Review of the fee guidelines in 28 Texas Administrative Code §134.204 does not find CPT code 99358 used for case management or otherwise. Therefore, this is not a workers' compensation specific code subject to 28 Texas Administrative Code §134.204.

28 Texas Administrative Code §134.203 (a)(2) states, "This section applies to professional medical services provided on or after March 1, 2008." 28 Texas Administrative Code §134.203 (a)(7) further states, in relevant part, "Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program..."

The division finds no provisions in the Texas Labor Code or division rules that conflict with provisions utilized by CMS regarding CPT code 99358. The division finds that the disputed services are professional medical services subject to the fee guidelines in 28 Texas Administrative Code §134.203.

2. The insurance carrier denied disputed services with claim adjustment reason code 601 – "PER THE FEE SCHEDULE, THIS SERVICE OR SUPPLY IS CONSIDERED BUNDLED," and TBR13 – "SERVICES ARE INCLUDED IN THE VALUE OF ANOTHER PROCEDURE."

Texas Administrative Code §134.203 (b) states:

For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:

- (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.

CPT code 99358 is defined as, "Prolonged evaluation and management service before and/or after direct patient care; first hour" and includes

- Prolonged services performed in a day that are not continuous
- Services provided by the physician or other qualified health care professional in relation to patient management where face-to-face services have or will occur on a different date
- Time spent after direct face-to-face contact beyond the usual not necessarily on the same date of service.

Medicare indicates that this service has a status of "B," which indicates, "payment for covered services are **always bundled** [emphasis added] into payment for other services not specified." The insurance carrier's denial reason is supported. Additional reimbursement cannot be recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____ Laurie Garnes _____	_____ September 17, 2015 _____
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**